

ADMINISTRATIVE - INTERNAL USE ONLY

DRAFT - 2
28 July 1981

MEMORANDUM FOR: Director of Information Services

FROM:

[REDACTED]
Chief, Classification Review Division

SUBJECT:

ion *(certain)*
A Suggested ~~Policy~~ for Handling Manuscripts
Written by Current and Former CIA Employees

1. The statistics over the past several years demonstrate that the number of intelligence-related writings by present and former CIA employees has steadily increased. This constant ~~and ever increasing~~ flow of information has made available to the public domain *an increasingly* ~~a continually more~~ detailed picture of the CIA. The review procedure has not been (and probably cannot be made) perfect and in spite of the best intentions by all parties concerned some significant disclosures of classified information have been made. This has included the names of CIA personnel, the location or confirmation of the existence of CIA stations and bases abroad, the identification of CIA organizational units at various levels, the covers used (even specific cover slots), operational methods used, internal administrative procedures, foreign liaison relationships, operational targets, the complete story of actual cases, and even the identification of sources. In addition, as vague and minor details accumulate, they take on greater meaning, i.e. the whole is greater than the sum of all its parts. How many parts of a house spread on the ground would *people* ~~one~~ have to study until they realized they were looking at an unassembled building. The harm these revelations are doing to CIA and the overall U. S. intelligence effort can only be guessed. ~~It~~ It is certain nevertheless, that this threat to our national intelligence effort can only grow more serious and that there will be a further development of the perception, already widely held, that Americans cannot keep secrets. Even when published accounts are acknowledged to be non-official, repeated confirmation by different authors, each writing on the basis of personal knowledge and experience, and making this fact very clear in the *books* flyleaf bio sketch, the line between official and non-official disclosure becomes blurred in the public mind. In the most critical areas, this accumulation of gift information offers an unneeded edge

to our professional adversaries and causes consternation among our official friends which can only lead to increasing difficulties for our intelligence efforts and will, over the long run, lead eventually to significantly and seriously impairing our national security.

2. Everything that relates either directly or indirectly to an intelligence service is sensitive and requires a degree of protection. There is essentially nothing about an intelligence service that totally lacks sensitivity, that does not form part of a thread in a fabric of ever greater sensitivity.

To support this view one need only to look at the CIA regulation covering access to, and release of, official information. That regulation defines official information as all information, whether classified or unclassified, that is originated, received or controlled by the Agency in pursuance of law or in connection with the discharge of official duties. ~~The CIA policy is that such information is not to be used for personal use or benefit and may not be copied or removed from the files of the Agency for any purpose except in connection with official business.~~ ~~information is not to be used for personal use or benefit and may not be copied or removed from the files of the Agency for any purpose except in connection with official business.~~

When people join an organization of this nature, they recognize that they are taking a position of trust and confidentiality. This is formally recognized and re-inforced by the signing of a secrecy agreement. Once inside the organization, each person will be exposed either directly or indirectly to classified work and will be associated routinely and continuously with people, activities, and facilities that require secrecy to succeed. This association with secrecy becomes a major part of one's experience in the intelligence business and to stay in the business one must very quickly learn how to protect sensitive information. That the great majority succeed in this is attested to by the small number fired for security indiscretions. This need for secrecy is accepted while one works for CIA but somehow that need is seen as losing its validity when one leaves the

Agency. ^{however,} That this is not the case has been proven by the negative reactions of friendly liaison services. ^{to disclosures made many years after the fact.} A case can also be made that U.S. foreign relations

have been affected in at least minor but hard to measure ways, ^{negatively} and that the ^{publication of information} ~~will~~ ^{about the CIA by CIA people must have a chilling effect on} ~~ness has cooled off~~ people who could be potential sources or collaborators ^{of the U.S.}

3. To prevent the compromise of classified information in the writings of present and former Agency employees, the Agency has implemented the publications review procedure. The internal guidelines established to govern these reviews have been sharply drawn so that they will fall well within legal requirements, and in practice they have been meticulously and defensively applied to avoid confrontation and possible legal actions. In the past, some material has been released that we would withhold today under current guidelines, an indication

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that the situation requires some remedy. From those who favor the release of more information we are continually confronted with arguments which are usually reduced to "if you released that ^{then} you should be able to release this." Once any release begins there is constant pressure to release more in a never-ending cycle. Some authors, when asked to delete a portion of their manuscript, have rewritten that section by explaining that the original material was deleted at CIA's request and then they proceed to rewrite the section in a way that undermines our efforts to protect classified information.

4. To stop this situation, it is recommended that CIA adopt a policy of generally withholding in toto all writings by employees and former employees that are non-fictional accounts of actual situations and activities conducted by or on behalf of the CIA. This would include accounts of all covert operational activities of an FI, CI, and CA nature as well as ^{administrative,} developmental, and support activities related to them. It would also include internal administrative and operational methods used to process intelligence information and produce a finished intelligence product. Writings concerned solely with finished intelligence or other types of products normally disseminated by CIA, and scholarly writings concerned with the general situation in the intelligence field or in the intelligence community may be published after appropriate review. It is suggested that this policy be implemented by issuing the necessary guidelines to reviewers who will withhold entire manuscripts that meet the above definition. The reason for withholding will normally be to protect intelligence activities, sources, and methods with finer distinctions possible to protect foreign government information and CIA organizational data.

Donald M. Simonds

ADMINISTRATIVE - INTERNAL USE ONLY

Approved For Release 2005/08/24 : CIA-RDP93B01194R001000030052-1

MEMORANDUM FOR: Director of Information Services

STAT

FROM:

Chief, Classification Review Division

SUBJECT:

A Suggested Policy for Handling Manuscripts
Written by Current and Former CIA Employees

1. The statistics over the past several years demonstrate that the number of intelligence-related writings by present and former CIA employees has steadily increased. This constant ^{an increasingly} [and ever-increasing] flow of information has made available to the public domain a continually more detailed picture of the CIA.

The review procedure has not been (and probably cannot be made) perfect and in spite of the best intentions by all parties concerned some significant disclosures of classified information have been made. This has included the names of CIA personnel, the location or confirmation of the existence of CIA stations and bases abroad, the identification of CIA organizational units at various levels, the covers used (even specific cover slots), operational methods used, internal administrative procedures, foreign liaison relationships, operational targets, the complete story of actual cases, and even the identification of sources. In addition, as vague and minor details accumulate, they take on greater meaning, i.e. the whole is greater than the sum of all its parts. How many parts of a house spread on the ground would one have to study until ^{he} [they] realized ^{he was} [they were] looking at an unassembled building. The harm these revelations are doing to CIA and the overall U. S. intelligence effort can only be guessed [at]. It is certain, nevertheless, that this threat to our national intelligence effort can only grow more serious and that there will be a further development of the perception, already widely held, that Americans cannot keep secrets. Even when published accounts are acknowledged to be non-official, repeated confirmation by different authors, each writing on the basis of personal knowledge and experience, and making this fact very clear in the flyleaf bio sketch, the line between official and non-official disclosure becomes blurred in the public mind. In the most critical and

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to our professional adversaries and causes consternation among our official friends which can only lead to increasing difficulties for our intelligence efforts and will, over the long run, lead eventually to significantly and seriously impairing our national security.

2. Everything that relates either directly or indirectly to an intelligence service is sensitive and requires a degree of protection. There is essentially nothing about an intelligence service that totally lacks sensitivity, that does not form part of a thread in a fabric of ever greater sensitivity. When people join an organization of this nature, they recognize that they are taking a position of trust and confidentiality. This is formally recognized and re-inforced by the signing of a secrecy agreement. Once inside the organization, each person will be exposed either directly or indirectly to classified work and will be associated routinely and continuously with people, activities, and facilities that require secrecy to succeed. This association with secrecy becomes a major part of one's experience in the intelligence business and to stay in the business one must very quickly learn how to protect sensitive information. That the great majority succeed in this ^{is} attested to by the small number fired for security indiscretions. This need for secrecy is accepted while one works for CIA but somehow that need is seen as losing its validity when one leaves the Agency. That this is not the case has been proven by the negative reactions of friendly liaison services. A case can also be made that U.S. foreign relations have been affected in at least minor but hard to measure ways, and that the willingness has cooled of people who could be potential sources or collaborators.

3. To prevent the compromise of classified information in the writings of present and former Agency employees, the Agency has implemented the publications review procedure. The internal guidelines established to govern these reviews have been sharply drawn so that they will fall well within legal requirements, and in practice they have been meticulously and ^{conscientiously} defensively applied to avoid confrontation and possible legal actions. In the past, some material has been released that we would withhold ^{from publication}

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4. To stop this situation, it is recommended that CIA adopt a policy of generally withholding in toto all writings by employees and former employees that are non-fictional accounts of actual situation and activities conducted by or on behalf of the CIA. This would include accounts of all covert operational activities of an FI, CI, and CA nature as well as developmental and support activities related to them. It would also include internal administrative and operational methods used to process intelligence information and produce a finished intelligence product. Writings concerned solely with finished intelligence or other types of products normally disseminated by CIA, and scholarly writings concerned with the general situation in the intelligence field or in the intelligence community may be published after appropriate review. It is suggested that this policy be implemented by issuing the necessary guidelines to reviewers who will withhold entire manuscripts that meet the above definition. The reason for withholding will normally be to protect intelligence activities, sources, and methods with finer distinctions possible to protect foreign government information and CIA organizational data.

Donald M. Simonds

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| | | |
|--|----------|-----------|
| TRANSMITTAL SLIP | | DATE |
| TO: <i>Chief Intel Br.</i> | | |
| ROOM NO. | BUILDING | |
| REMARKS: | | |
| <p><i>Any comments or suggestions. Return to C/CRD</i></p> <p><i>I would also withhold all "fiction" that gives too much away. also we should review the dust jacket bio. SA</i></p> | | |
| FROM: <i>AC/CRD</i> | | |
| ROOM NO. | BUILDING | EXTENSION |

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

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1. From a reviewer's point of view, we are continually faced with a balancing act - if we fall on one side we risk charges of breaking laws of the Espionage Act and if we fall on the ~~side~~ other side we risk charges of disobeying the Executive Order 12065. The "policy" involved is derived from an interpretation of the law, i.e. by OGC, by Dept. of Justice, and by the Court. If the court decides the First Amendment takes precedent our policies will go begging regardless of our best intentions.

2. I believe our policy is, or should be, to release only that ~~info~~ information which would in no way be harmful to the continuing effectiveness of the Agency or the U.S. Govt. - and which, if challenged, would ~~be~~ be upheld in court. Beyond this our "policy" derives from what has succeeded in the past - precedent. If, for example, our policy was as stated in Para. 4, and we could not satisfy the court that it was valid then our policy would be void.

3. For these reasons I believe it might be better to avoid "policy" pronouncements and simply pass the word quietly to reviewers that we should be more withholding in the future - including withholding entire manuscripts. (This could be the subject of a Staff meeting- or several Staff meetings both Branch and Division). Also, I believe, it would be beneficial to cite the specific cases which resulted in the release of information noted in Para. 1 of the memo - not to point a finger of blame but to show how such releases happen- if not obvious - and to help tighten procedures in the future. I believe we can better accomplish our objectives of protecting sources and methods by more careful review than by attempting to circumvent the First Amendment

Hal

I agree wholeheartedly with Don - this "memoirs" bit by DO retired personnel has to stop. There's hardly anything they can ~~not~~ write about their past activities - in praise as well as criticism - that won't hurt security in some way.

Which brings up a second point - why aren't the ^{biographies} handouts on DO bigshots under the same rules as manuscripts? It seems rather pointless to scrupulously delete all mention of overseas posts only to read in the NY Times all of John Stein's overseas slots, the cover he had, and that he "went into Pnomh Penh a few days after Sihanouk was overthrown!" Who hands out such info - they had to learn it from someone! When Colby became DCI they listed where he had lived overseas! Who puts together those official biographies?

th

MEMORANDUM FOR: Director, Office of Information Services

FROM:

Chief, Classification Review Division

SUBJECT: A Suggested Policy for Handling Manuscripts
Written by Current and Former CIA Employees

1. The statistics over the past several years demonstrate that the number of intelligence-related writings by present and former CIA employees has steadily increased. *This continually increasing flow of information* It has also been demonstrated that the publication of this uncontrolled *about CIA making its way into the public domain from those who worked in the business* number of writings has resulted in a continuing trickle of sensitive data concerning our intelligence services and operations into the public domain even with the best of intentions from all parties concerned, and that unfortunately *Insert* has not always been the case. Among the items of information placed in the public domain have been the names of CIA personnel, the location or confirmation of the existence of CIA stations and bases abroad, the identification of CIA organizational units at various levels, the covers used (even specific cover slots), operational methods used, internal administrative procedures, foreign liaison relationships, operational targets, the complete story of actual cases, and even the identification of sources. *In addition, i.e.,* Other than the occasional reaction of a ~~foreign government or an individual personally affected, this~~ the harm these revelations are doing to CIA and the overall U.S. intelligence effort can only be guessed at. It is certain nevertheless, that this threat to our national ~~security~~ intelligence effort can only grow more serious from the continual ~~accumulation of sensitive information being placed in the public domain~~ and further development of the perception, already widely held, that Americans cannot keep secrets. Even when published accounts are acknowledged to be non-official, repeated confirmation by different authors, each writing on the basis of personal knowledge and experience and making this fact very clear in the flyleaf bio sketch of the author, ~~blurs in the public mind the line between~~ official and non-official disclosure. *becomes blurred in the public mind.* In the most critical areas, this accumulation of gift information offers an unneeded edge to our professional adversaries and causes consternation among our friends which can only lead to increasing difficulties for our intelligence efforts and will, over the long run, lead eventually to significantly and seriously impairing our national security.

This constant + even increasing flow of info ^{has} ~~into the public domain~~ ^{made available to the public domain} ~~has~~ ^{presented} a continually more detailed picture of the CIA. ~~to any who cared to read about it.~~ There may have been the review procedure has not been (+ probably cannot be made) perfect + in spite of the best intentions some significant disclosures of class info have been made. In addition, ~~the mass of details provide a picture as~~ vague + minor details ^{structure +} take on clearer meaning as they accumulate. ~~Disclosures have included~~

These have included

they take on ever more meaning.

How many parts of a house ~~would~~

spread on the ground would one have

to study until they realized they were looking at an unassembleable

This association with secrecy becomes a ^{major} part of one's experience in the intelligence business & to ~~the~~ stay in the business one must very quickly learn how to protect sensitive information. The great majority succeed in this as attested to by the small number fired for security indiscretions. This need for secrecy is accepted while one works for CIA. ~~Why do we think the only thing that makes it~~ but somehow that need is seen as losing its currency when one leaves the Agency. That this is not the case has been proven by the negative reactions of friendly liaison services. ~~who raise issue with specific points disclosed in~~ A case can also be made that U.S. foreign relations have been affected in

at least minor but hard to measure
ways, and the cooling reactions of
people who could be potential sources
or collaborators can only be guessed
at.

the sensitivity is likely to become, and when you expand this to other authors, there is an effect that can lead to disaster.

3. To prevent the compromise of classified information in the writings of present and former Agency employees, the Agency has implemented the review ^{PUBLICATIONS} procedure. The internal guidelines established to govern these reviews have been sharply drawn so that they will fall well within legal requirements, and in practice they have been meticulously and defensively applied to avoid confrontations and possible legal actions. In the past, some material has been released that we would withhold today under current guidelines, an indication that the situation ^{requires some remedy,} ~~is deteriorating and requires sterner measures.~~ From those who favor the release of more information we are continually confronted with arguments which are usually reduced to "if you released that you should be able to release this." Once any release begins there ^{is} ~~will be~~ constant pressure to release more in a never ending ^{cycle,} ~~decline down a slippery slope.~~ Some authors, when asked to delete a portion of their manuscript, have rewritten ^{that} ~~the~~ section by explaining that the original material was deleted at CIA's request and then they proceed to use different language to say the same thing ~~in a less precise~~ ^{way} that undermines our efforts to protect classified information. ~~Among former~~

STAT

[REDACTED] STAT

4. To bring a stop to this situation it is recommended that CIA adopt a policy of generally withholding in toto all writings by employees and former employees that are non-fictional accounts of actual situations and activities conducted by or on behalf of the CIA. This would include accounts of all covert operational activities of an FI, CI, and CA nature as well as developmental and support activities related to them. It would also include internal administrative and operational methods used to process intelligence information and produce a finished intelligence product. Writings concerned solely with finished intelligence or other types of products normally disseminated by CIA, and scholarly writings concerned with the general situation in the intelligence field or in the intelligence community may be published after appropriate review. It is suggested that this policy be implemented by issuing the necessary guidelines to reviewers who will withhold entire manuscripts that meet the above definition. The reason for withholding will normally be to protect intelligence activities, sources, and methods with finer distinctions possible to protect foreign government information and CIA organizational data.

[REDACTED] STAT

C/CRD

Experience has shown data released
Adds up until too high a price to pay
We now have evidence of this

People enter Agency in position of trust
Sign secrecy agreement

Have rights but not absolute

Need to balance rights vs national
security

Also balance with American public's
need to know.

Conclusion is that writings must
be curtailed

Policy should be to disallow
~~non-fictional~~ writings relating
to their Agency experience

Non-fictional

Relates to running of the Agency
& activities conducted by the Agency

Can publish scholarly articles
on substantive matters not
related to intel activities -
such as after proper approval

15 May 1981

MEMORANDUM FOR: Chief, Classification Review Division

FROM: Chief, Operations Branch

SUBJECT: A New Policy for Review of Manuscripts

1. The CIA faces a mounting problem from the writings published by CIA employees, particularly those who are former employees. As one reads the manuscripts they can see that day by day a few more bits of sensitive information about the CIA are compromised and picture of what the CIA is and what it does becomes clearer and sharper to anyone who cares to learn. This can only impact adversely on the CIA and its operations and thereby diminish the value of its contribution or our national security. Why should this be allowed to continue, and can we stop it?
2. The short answer to that question is that no one really knows. On the other hand, what case can be made to stop this self-inflicted hemorrhaging? When we come to work for the CIA we all know that we are accepting a position of trust with the United States Government and beyond that we all sign a statement that we ~~are~~ accept the responsibility to protect the information we learn as a result of our employment. That such responsibilities exist and are legally supportable has been confirmed by the Supreme Court, even that such a responsibility exists in a position of trust without the signing of a specific agreement. The fulfillment of this trust has been construed to mean that any writing or speaking which deals with intelligence matters must be cleared with CIA. In practice this has meant submitting manuscripts or speech outlines for review and clearance. The guidelines drawn up within the Agency under which the reviews are made have been very strict with the Agency often leaning over backwards to release to avoid confrontations and possible legal actions. In addition, errors have been made and information released we wish had not been. Now after several years experience in this program one might ask what has been the result? From former Directors to former case officers we have autobiographical accounts of supposedly covert Agency employment, some write accounts of the exploits of their Agency colleagues, some tell the history of actual and sensitive intelligence operations, there is hardly a facet of the Agency's activities that hasn't been discussed in the public domain. Such public utterances can only impact adversely on an intelligence service and this adverse impact is compounded as this situation

EVEN IF UNOFFICIAL & NOT EXEC. RELEASE,
 REPETITIOUS, CONFIRMING ACCOUNTS TEND
 TO ~~BE~~ EQUIVALENT OF, OR E.R. DE FACTO
 IF NOT DE JURE.

continues, i.e. the cost to the Agency, to the United States Government and to our national security rises. We have now had enough experience to support initiating some action to curtail this hemorrhaging.

3. Any action that is ²proposed must be respectful of the First Amendment rights which we are all guaranteed. Therefore, any restrictions imposed must be as precisely directed as possible to solve the problem with the least damage to an individual's rights. To achieve this it is recommended that CIA adopt the policy that employees and former employees will not be allowed to publish non-fictional accounts of intelligence matters that relate to the organization, functioning, and activities of an intelligence service. The objective would be to allow publishing, after proper clearance, of information concerning the product resulting from the collection and processing of intelligence information but would prevent the ²compromise of information related to the means by which information is obtained along with all other activities engaged in by an intelligence ~~s~~ service. The restrictions on individual rights would be limited to the minimum commensurate with maintaining the necessary national security.

*4/11/70
Reviewed
SA
[Signature]*

4. The basic argument is reduced to the question whether the limitation on an individual's rights is balanced by the need in this area to protect our national security. The right to speak, or to write, is not absolute. One can't shout "Fire!" in a ^{do}crowded hall. The question in this case becomes one of when will the damage resulting from the making public of this type of information concerning CIA's organization, functioning, and activities accumulate to the point that additional increments would reasonably be expected to damage the national security to the extent that it outweighs that individual's right to speak. If we conclude that that point has been reached, the implementation of this policy is justified.

| | | |
|---|----------|---------------|
| TRANSMITTAL SLIP | | DATE 4 Jun 81 |
| TO: STAN | | |
| ROOM NO. | BUILDING | |
| REMARKS: | | |
| <p>TOOK A QUICK SHOT AT YOUR PAPER. SOME THOUGHTS —</p> <ol style="list-style-type: none"> 1. [MEANS GOOD POINT (BUT PROBABLY COULD BE TIGHTENED UP). 2. X MEANS PURPLE PROBE PROBABLY BEST LEFT OUT. 3. MARGINAL NOTE MAY ADD SOMETHING 4. PROBLEM: WHAT ABOUT WRITING ON PRODUCT WHEN IT TENDS TO REVEAL, BY ITS UNIQUENESS, THE METHOD OF COLLECTION? | | |
| FROM: DON | | |
| ROOM NO. | BUILDING | EXTENSION |

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(17)

27 July 81
DRAFT D

SECURITY

APD

*22. ACCESS TO AND RELEASE OF OFFICIAL [INFORMATION] (U)

SYNOPSIS. This regulation sets forth policy governing access to and release of all official [information] in the possession of the Agency. (U)

a. DEFINITION. The term "official [information]" as used in this regulation includes all information, whether classified or unclassified, which is originated, received or controlled by the Agency in pursuance of law or in connection with the discharge of official duties. Excluded from this definition are personal copies of unclassified/uncontrolled administrative notices, personnel actions, financial statements, medical records, and items meant for public consumption such as newspapers, magazines, books, and reference materials. All official [information] as defined here is the property of the United States Government. (U)

b. POLICY

(1) GENERAL. Official [information] is not to be used for personal use or benefit and may not be copied or removed from the files of the Agency for any purpose except in connection with official business.

(2) ACCESS. Official [information] ~~will~~ not be provided to or used by an individual unless it is required ~~shall~~ /will/

*New Numbering Series

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has been completed and the PRB received high marks. Two recommendations pertained to the PRB: "We believe that senior management should encourage the modest efforts OPA has made thus far, to the PRB Reference Center, support the temporary detailing of an ODP specialist to OPA, and ensure that the necessary resources are allocated," and,

IG Study

"We do believe, however, that the newly appointed General Counsel should review the present OGC position on what can be disallowed in manuscripts by former DO officers which deal almost in toto with actual operations and agents. Specifically, he should determine if there is sufficient merit in the DO argument that such books should be disallowable in their entirety as to warrant the Board's taking a stronger stand on such submissions, accepting the possibility of litigation." (C)

6. The meeting adjourned at 1125 hours. (U)

[Redacted Signature]

Assistant Executive Secretary, PRB

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APPROVED-

[Redacted Signature]

Lavon B. Strong, Chairman

7/15/81

Date

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1 - C/CRD (mes:16 July 1981)

Approved For Release 2005/08/24 : CIA-RDP93B01194R001000030052-1

AGENCY POLICIES ON PREPUBLICATION REVIEW
PROVISIONS OF SECRECY AGREEMENTS

A. POLICY ON ENFORCEMENT OF SECRECY AGREEMENTS RELATED TO
PREPUBLICATION REVIEW

1. Subsequent to the Supreme Court's decision in U.S. v. Snapp, numerous inquiries have been received concerning the Agency's policy on enforcement of its secrecy agreement. The purpose of this notice is to set forth information concerning the Agency's policy, for purposes of assisting persons subject to secrecy agreements to comply in good faith with the requirements of those agreements.

2. The purpose of the prior review requirement in the secrecy agreement is to determine whether material contemplated for public disclosure contains classified information and, if so, to give the Agency an opportunity to prevent the public disclosure of such information. Prior review for this purpose is unavailing if such material already has been disseminated publicly, since comparison of the material after Agency review and action with the material already available publicly would reveal which items of classified information, if any, had been deleted at the Agency's request. Consequently, in any case in which written material submitted to the Agency for prepublication review already has been circulated to publishers or reviewers, or has otherwise been made available to the public, the Agency will not consider that submission of such material complies with the requirements of the secrecy agreement or cures any breach of that agreement occasioned by the prior public disclosure of such information. The Agency reserves the right to review any such material for purposes of taking necessary protective action to mitigate damage caused by disclosure of classified information it may contain, but such review and action shall be entirely without prejudice to the legal rights of the United States Government and the Agency under the secrecy agreement.

3. Persons bound by the secrecy agreement should understand that the Agency cannot determine unilaterally what action in court will be taken in the case of a breach of the agreement. The Agency's recommendations in this regard are subject to the decision of the Attorney General. The Agency Office of General Counsel will be notified in all cases when a known breach occurs. The expressed or presumed attitude of a person toward the United States Government or the Agency is not a factor in determining what recommendation may be made by the Agency to the Department of Justice.

4. Persons subject to a secrecy agreement are invited at any stage to discuss their plans for public disclosures covered by the agreement. The views of the Agency can only be given by an authorized representative specifically designated for this purpose by the Director in regulation or otherwise. No one should act in reliance on any position or views expressed by any person other than such authorized Agency representative.

B. POLICY ON MATERIAL TO BE SUBMITTED FOR PREPUBLICATION REVIEW

STAT 1. It is not possible to anticipate each and every question that may arise. It is the policy of the Agency to respond, as rapidly as possible, to specific inquiries, raised by persons subject to an Agency secrecy agreement, as to whether specific materials require submission for review. Guidelines for submission are contained in [redacted]. Further questions should be referred to the Publications Review Board. Former employees should address all questions concerning secrecy agreements to the Office of General Counsel.

2. The Agency considers the prior review requirement to be applicable whenever a person bound by the secrecy agreement actually has prepared material for public disclosure which contains any mention of intelligence data or activities or which is based on information classified pursuant to Executive Order. The Agency views it to be that person's duty to submit such material for review in accordance with the secrecy agreement. A person's obligation under the agreement remains identical whether such person prepares the material himself or causes another person, such as a ghost writer, spouse or friend, to prepare the material.

3. The provisions of the secrecy agreement requiring submission of information or materials for review are not limited to any particular category of materials or methods of disclosure. In the view of the Agency, these provisions apply to both oral and written materials. With respect to written materials, the provisions apply not only to books but to all other forms of written materials intended for public disclosure, such as (but not limited to) newspaper columns, magazine articles, letters to the editor, book reviews, pamphlets, and scholarly papers. Because alleged fictional treatment can be used as a subterfuge to convey factual information, fiction about the CIA or about intelligence activities is covered by the agreements.

4. Oral statements constitute one of the most difficult areas in application of the secrecy agreement. The agreement applies to material that the person contemplates disclosing publicly or actually has prepared for public disclosure. It does not, in the Agency's view, require the preparation of such material. Thus, a person bound by the agreement is not in breach of the agreement if that person participates extemporaneously and without prior preparation in an oral expression of information (e.g., news interview, panel discussions, extemporaneous speech) and does not submit material for review in advance. This does not, of course, exempt such person from liability for any unauthorized disclosure of classified information that may occur in the course of such extemporaneous oral expression.

5. The requirement under the secrecy agreement is only to submit materials on the subject matter of intelligence or the Agency and its activities or material which may be based upon information classified pursuant to Executive Order. The prepublication review requirement does not apply therefore to topics that are totally unrelated to intelligence matters, such as a manuscript of a cookbook, a treatise on gardening or writings on domestic political matters. Nor does the prepublication review requirement extend to discussion of foreign relations not purporting to contain or be based upon intelligence information.

6. Material that consists solely of personal views, opinions or judgments on matters of public concern and does not contain, or purport to contain any mention of intelligence data or activities or contain or purport to contain data which may be based upon information classified pursuant to Executive Order is not subject to the prepublication review requirement. For example, a person bound by the secrecy agreement is free, without prior review, to submit testimony to the Congress, make public speeches or publish articles on such topics as proposed legislation or foreign policy, as long as the material prepared by such person does not directly or impliedly constitute a statement of an informational nature about intelligence activities or substantive intelligence information. It should be obvious that in some circumstances the expression of what purports to be an opinion may in fact convey information subject to prior review under the secrecy agreement. For example, a former intelligence analyst's opinion that the U.S. can or cannot verify SALT compliance is an implied statement of fact about Agency activities and substantive intelligence information, and would be subject to prior review. This does not mean that such a statement necessarily would be classified and require deletion, but merely that the subject matter requires review by the Agency before publication. A discussion of the desirability of the SALT treaty based on analysis of its provisions and without discussion of intelligence information or activities would not. It should be clear that descriptions of an employee's Agency activities can be expected always to require prior review under these principles. At the other extreme, it is clear that a person subject to the secrecy agreement, who writes or speaks about areas of national policy from the perspective of an observer outside the government and without purporting to rely on classified information, intelligence information, or information on intelligence activities, does not have to submit such materials for prior review. While some "gray areas" may remain, persons subject to the secrecy agreement are expected to err on the side of voluntary prepublication review, in keeping with the spirit and intent of the agreement.

... fundamental issue for our society. If the
... cannot trust the judgment of its public servants
... regarding what should or should not be withheld from the
public, then the society can in fact have no secrets at
all."

But even more was at stake than the CIA's secrecy oath.
Other agencies that require employees to sign similar contracts
include the FBI, the Department of State, the National
Security Agency, some units of the Treasury Department, the
Department of Defense, the Nuclear Regulatory Commission and
the Department of Energy. Yet to go to court, I virtually
had to order the Justice Department's Civil division to file
the suit. Lawyers in that division kept warning that the
press would attack me on grounds that I was eroding the
First Amendment's guarantee of a free press. I told them
that the suit concerned breach of contract and had nothing
to do with the First Amendment. Any kind of prior restraint --
an attempt by government to block publication -- will produce
claims that the First Amendment has been torn to shreds.
But this was no case of censorship; it was a case of breach
of contract. If Snepp did not want to work for an employer
who required him to obtain clearance for what he wrote about
his employment, he didn't have to take the job. There's no
longer involuntary servitude in this country. The secrecy
oath was a condition of his employment, and he decided to
violate it. If you enter into a written, solemn contract
and breach it, that's a serious matter.

121

*Final Draft of EO that 17 Aug
will replace EO-12065*

disclosure of information could be expected to cause damage to the national security, it is not necessary to consider such information in isolation. Information shall be classified if its unauthorized disclosure, when considered in the context of other information, reasonably could be expected to cause such damage.

1-303. Unauthorized disclosure of foreign government information, information which could compromise the identity of a confidential source, information relating to intelligence activities, including special activities, or intelligence sources or methods, or cryptology is presumed to cause damage to the national security.

1-304. Information classified in accordance with Section 1-3 shall not be automatically declassified as a result of any unofficial publication, or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

1-4. Duration of Classification.

1-401. Information shall be classified for as long as required by national security considerations. Procedures shall be developed by agencies to ensure the effectiveness and integrity of the classification system while eliminating the accumulation of classified information which no longer requires protection. Information should be considered for downgrading or declassification as soon as practicable based on the degree to which the passage of time or the occurrence of a specific event

PUBLICATIONS REVIEW BOARD ACTIVITY

| | | YEAR | | | | |
|--------------------------|--------------|------|----|----|-----|-----------------------|
| STATUS | ACTIONS | 77 | 78 | 79 | 80 | 81 |
| CURRENT EMPLOYEES | DISAPPROVED | 2 | 1 | 1 | 1 | 2 |
| | NO CHANGES | 28 | 28 | 45 | 18 | 12 |
| | SOME CHANGES | 0 | 1 | 1 | 0 | 1 |
| | UNDER REVIEW | 0 | 0 | 0 | 0 | 2 |
| | WITHDRAWN | 0 | 1 | 0 | 0 | 1 |
| *TOTAL CURRENT EMPLOYEES | | 30 | 31 | 47 | 19 | 18 |
| DEFECTOR | DISAPPROVED | 0 | 1 | 0 | 0 | 0 |
| | NO CHANGES | 0 | 1 | 1 | 1 | 1 |
| | SOME CHANGES | 0 | 0 | 0 | 1 | 0 |
| | WITHDRAWN | 0 | 1 | 0 | 0 | 0 |
| *TOTAL DEFECTOR | | 0 | 3 | 1 | 2 | 1 |
| FORMER EMPLOYEES | DISAPPROVED | 0 | 0 | 0 | 1 | 0 |
| | NO CHANGES | 6 | 16 | 24 | 90 | 60 |
| | SOME CHANGES | 4 | 12 | 20 | 35 | 21 |
| | UNDER REVIEW | 0 | 0 | 0 | 0 | 7 |
| | WITHDRAWN | 2 | 0 | 0 | 1 | 0 |
| *TOTAL FORMER EMPLOYEES | | 12 | 28 | 44 | 127 | 88 |
| TOTAL | | 42 | 62 | 92 | 148 | 107 (as of 17 Aug 81) |

IDYEAR COUNT

